

RESOLUTION TOWN OF SOMERSET

At a regular meeting of the Town of Somerset Town Board held at the Town Hall, 8700 Haight Road, Barker, New York 14012, on the 9th day of January, 2007, the following Resolution was duly adopted:

WHEREAS, the Niagara County Industrial Development Agency (NCIDA) has adopted a resolution dated October 27, 2006 entitled:

“RESOLUTION AUTHORIZING THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO: (I) UNDERTAKE A CERTAIN PROJECT FOR THE BENEFIT OF **AES SOMERSET, LLC**, ...; (ii) DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT POTENTIAL ADVERSE IMPACT ON THE ENVIRONMENT; (iii) EXECUTE AND DELIVER A LEASE AGREEMENT, LEASEBACK AGREEMENT, PAYMENT-IN-LIEU-OF-TAX AGREEMENT AND RELATED DOCUMENTS; (4) PROVIDE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF A PARTIAL REAL PROPERTY TAX ABATEMENT THROUGH THE PAYMENT-IN-LIEU-OF-TAX AGREEMENT.”

; and

WHEREAS, after a thorough analysis of financial impacts of this property tax exemption AES Somerset, LLC (AES) will receive a tax savings of between \$40 - \$90 million over the next twelve (12) years; and

WHEREAS, in reviewing the AES application to NCIDA, the environmental assessment form filed in connection therewith, the other resolutions adopted by said NCIDA on September 21, 2006, and October 27, 2006, and related minutes, agendas and notices. It is clear that this application by AES is deficient as a matter of law, does not protect or save jobs, does not preserve the facility in Niagara County, does not

create additional employment opportunities or encourage additional construction or growth; and

WHEREAS, the AES facility is unquestionably the most profitable coal fired electrical generation facility in Western New York and possibly all of New York State without any tax abatement; and

WHEREAS, the assessments as set by the Town of Somerset Assessors have been verified by both the New York State Office of Real Property Tax Services and Town experts assuring all parties of fairness in the assessment process in particular with other Niagara County taxed parcels; and

WHEREAS, it is now clear that a second clean coal electrical generating facility will not be constructed in the Town of Somerset or anywhere in Niagara County without which this proposed PILOT is totally unacceptable by granting substantial tax relief on the basis of construction of the second plant and its proposed additional job creation as well as increasing value of the AES lands in the Town of Somerset; and

WHEREAS, the statement made by the attorneys for NCIDA before their vote on this project that the purpose is:

1. "To preserve or advance job opportunities to help in the general prosperity and economic welfare of Niagara County";
2. "To provide incentives that lead to the creation or retention of a substantial number of jobs and investments"; and
3. "To prevent economic deterioration to the area served by an IDA.";

and it is clear the inducement of AES does not rise to the standards as stated in this purpose statement; and

WHEREAS, the application as filed by AES dated September 18, 2006, accepted by the NCIDA on September 21, 2006, and finally approved by that Agency on October 27, 2006, is incomplete, lacking of any documentation establishing a need or necessity of such action on behalf of an enormously profitable billion dollar facility; and

WHEREAS, this action by the NCIDA removes more than \$660,000,000 from the Niagara County tax rolls and will cost Niagara County taxpayers between \$40 - \$90 million over the next twelve (12) years. It is also reported that this action may result in the loss of up to thirty (30) positions at the Barker Central School District.

NOW, THEREFORE, it is RESOLVED:

1. The Town Board of the Town of Somerset requests the Niagara County Legislature demand its Industrial Development Agency rescind, in total, any and all resolutions or actions relating to the removal of AES Somerset, LLC from the Niagara County tax rolls;
2. The Town Board of the Town of Somerset demands NCIDA rescinds its Preliminary Resolution (AES Somerset, LLC PILOT Project) of September 21, 2006, its Final Resolution (AES Somerset, LLC PILOT Project) of October 27, 2006, as well as any other resolutions or actions relating to AES Somerset, LLC, for itself or on behalf of an entity formed or to be formed (the "Company") relating to acquisition of title to or a leasehold improvements located at 7725 Lake Road in the Town of Somerset, Niagara County, New York; and

FURTHER RESOLVED, that Andrews, Pusateri, Brandt, Shoemaker & Roberson, P.C., attorneys for the Town of Somerset be authorized to initiate a lawsuit on behalf of the Town of Somerset, and its Town Board members, as members and individually as residents and taxpayers who support this resolution against the NCIDA, AES, or any entity related to AES in title or otherwise to vacate or void any act, resolution or agreement relating to an application by AES to NCIDA to undertake a project, to declare negative declaration under SEQRA, to execute lease, leaseback,

PILOT or related agreements or provide financial assistance to AES relating to real property in the Town of Somerset, Niagara County, New York.

DATED: January 9, 2007

**BY ORDER OF THE TOWN BOARD,
TOWN OF SOMERSET**